



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/728,471

12/05/2003

Dwayne E. Ebersole

TN337C

9452

7590  
Unisys Corporation  
Attn: Michael B. Atlass  
MS/E8-114  
Unisys Way  
Blue Bell, PA 19424-0001

09/24/2007

EXAMINER

DINH, KHANH Q

ART UNIT

PAPER NUMBER

2151

MAIL DATE

DELIVERY MODE

09/24/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/728,471	<b>Applicant(s)</b> EBERSOLE ET AL.	
	<b>Examiner</b> Khanh Dinh	<b>Art Unit</b> 2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-17 are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**Election/Restriction**

1. Claims 1-17 are presented for examination.
2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-5, drawn to a computing system employing VIA for data communications from a VIA enabled software application thorough at least NIC, classified in class 709, subclass 219.
  - II. Claims 6-19, drawn to a data management for tracking a plurality of NIC connections resident on a computing system, classified in class 709, subclass 225.
  - III. Claims 10-17, drawn to a method for providing physically independent network interface cards for a computer system, classified in class 709, subclass 228.

The inventions are distinct, each from the other because of the following reasons:

3. Inventions I, II, III are related as subcombinations disclosed as usable together in a combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as to a computing system employing VIA for data communications from a VIA enabled software application thorough at least NIC, classified in a *different Class/Subclass*. Invention II has separate utility such as a data management for tracking a plurality of NIC

Art Unit: 2151

connections resident on a computing system, classified in a *different Class/Subclass*.

Invention III has separate utility such as a method for providing physically independent network interface cards for a computer system, classified in a *different Class/Subclass*.

4. The inventions are distinct, each from the other, because of the following reasons:

(a) These inventions have acquired a separate status in the art as shown by their different classifications.

(b) The search required for each Group is different and not co-extensive for examination purposes.

For example, the searches for the three inventions would not be co-extensive because these Groups would require different searches on PTO's classification class and subclass as following:

the Group I search (claims 1-5) would require use of search **class 709, subclass 219** (not require for the inventions II, III).

the Group II search (claims 6-9) would require use of search **class 709, subclass 225** (not require for the inventions I, III).

the Group III search (claims 10-17) would require use of search **class 709, subclass 228** (not require for the inventions I, II).

For the reasons given above restriction for examination purposes as indicated is proper.

Art Unit: 2151

5. A telephone call was made to Michael Atlass (Reg. No.30,606) on 9/4/2007 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

#### **Conclusion**

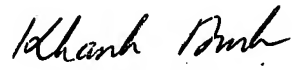
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh Dinh whose telephone number is (571) 272-3936. The examiner can normally be reached on Monday through Friday from 8:00 A.m. to 5:00 P.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung, can be reached on (571) 272-3939. The fax phone number for this group is (703) 872-9306.

*A shortened statutory period for reply is set to expire THIRTY DAYS from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned (35 U.S. C . Sect. 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(A).*

Art Unit: 2151

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305 -9600.

  
KHANH DINH  
PRIMARY EXAMINER  
TECHNOLOGY CENTER 2100